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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 JAMES EUSSE, JR.,
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12 Plaintiff,
13 v.
14 MARCO VITELA, et al.,
15
16 Defendants.
17 _____

) Civil No. 13-CV-916 BEN (NLS)
)
) **REPORT AND**
) **RECOMMENDATION FOR**
) **ORDER:**
)
) **1. GRANTING PLAINTIFF’S**
) **MOTION FOR LEAVE TO FILE A**
) **SECOND AMENDED COMPLAINT**
)
) **2. DENYING DEFENDANTS’**
) **MOTION TO DISMISS AS MOOT**
)
) (Dkt. Nos. 18 and 21.)

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19 On February 28, 2014, Defendants filed a motion to dismiss portions of Plaintiff’s
20 first amended complaint. (Dkt. No. 18.) In response, Plaintiff filed a motion for leave to
21 file a second amended complaint. (Dkt. No. 21.) The Court issued an order instructing
22 Defendants to file a response by June 6, 2014, if they wished to oppose Plaintiff’s
23 motion. (Dkt. No. 22.) No response was filed.

24 Under Federal Rule of Civil Procedure 15(a), the Court should “freely give leave
25 [to amend] when justice so requires.” Having reviewed Plaintiff’s motion, and for good
26 cause shown, it is hereby **RECOMMENDED** that Plaintiff’s motion for leave to file a
27 second amended complaint be **GRANTED**, and **RECOMMENDED** that Defendants’
28 motion to dismiss be **DENIED** as moot.


1 The undersigned submits this Report and Recommendation pursuant to 28 U.S.C. §
2 636(b)(1) to the United States District Judge assigned to this case.

3 **IT IS ORDERED** that no later than **June 24, 2014**, any party to this action may
4 file written objections with the Court and serve a copy on all parties. The document
5 should be captioned "Objections to Report and Recommendation."

6 **IT IS FURTHER ORDERED** that any reply to the objections shall be filed with
7 the Court and served on all parties no later than **July 8, 2014**. The parties are advised
8 that failure to file objections within the specified time may waive the right to raise those
9 objections on appeal of the Court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
10 1991).

11 **IT IS SO ORDERED.**

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13 DATED: June 10, 2014

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15 Hon. Nita L. Stormes
16 U.S. Magistrate Judge
17 United States District Court
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